

**May 28, 2009 Minutes of
Bigfork Land Use Advisory Committee**

Committee members present: John Bourquin, Shelley Gonzales, Gary Ridderhoff, Paul Guerrant, Sue Hanson and 12 members of the public.

Chairman Gonzales called the meeting to order at 4: 05 pm.

Gonzales read Rules of Public Comment.

The Agenda was adopted as presented (m/sc Bourquin/Ridderhoff) – unanimous.

Minutes of the April 30, 2009 meeting were approved as mailed - unanimous. (m/sc Guerrant/Ridderhoff)- unanimous.

ADMINISTRATOR’S REPORT:

A. Sign-in Sheet: Reminder to the public of the availability of BLUAC minutes through email and BSC website bigforksteering.org/.

B. Application status: The Commissioners passed the Bielenberg/Thorsrud Zone Change 5-27-09. BLUAC By-Law amendments were approved by the Commissioners 5-28-09.

APPLICATIONS:

A. A request by Brach Thomson and the Bigfork Playhouse Children’s Theater, for a Conditional Use Permit for a community center building operated by a non-profit agency within the Bigfork, R-1 (Suburban Residential) Zoning District. The property is located at 833 Grand Drive.

Staff: Bailey Lott stated the 0.189-acre subject property is located at 833 Grand Drive, approximately 0.075 miles (398 feet) north of the intersection of Holt Drive and Grand Drive, east of Montana Highway 35, in Bigfork. The proposal is to establish a community center operated by a non-profit Agency, located on the subject property, for the Bigfork Playhouse Children’s Theatre. The facility is intended for after school activities including dance, drama, voice, music lessons, as well as tutoring and reading accommodations. The property is zoned R-1. Community centers operated by a non-profit agency are a conditional use under the R-1 regulations (FCZR Section 3.09.030). The character of the area surrounding the subject property is residential and commercial. Planning Staff recommends approval subject to the 14 conditions included in the Staff Report.

Gonzales: Has title to the property passed? A. Yes. Will the proposal to be ADA compliant? A. Yes, included in Condition #4 Section 6.11.020.

Bourquin: Do you have written permission from Flathead Bank for after hours parking? A. We are in the process of acquiring a letter from the Bank.

Applicant: Brach Thomson stated the Bigfork Children’s Theatre is a 501c3 non-profit organization. We needed space for dance, voice lessons. At the present time, most of the students go to Kalispell for that. We are teamed with the LEAP program and plan to establish a tutoring center with computer workstations. Most students will be walking from the adjacent school. We are working with Round Up For Safety to establish crosswalks. Further discussions with the Water and Sewer Dept. concluded the present service is adequate for our uses.

Gonzales: Will there be a handicap bathroom in the lower level? A. We will work within the

regulations for ADA compliance.

Bourquin: If you will be operating from after school hours to 8:00 p.m., where do people park before the 5:00 p.m. bank parking becomes available? A. Most will be walking from school. We will establish a plan for drop-offs if necessary. Staff: The 9 parking spaces would meet zoning requirements for the time period between 3:30 to 5:00 pm and can be met with the requested variances.

Public Agencies: None

Public Comment:

Walter Kuhn stated he bought the property to give Brach time to get funds together. He estimated 7 parking places on the south side of the property and 4-5 in front. The Fire Department is across the street. This area is more commercial than residential. He is encouraged with what Brach is trying to do for the community.

Serena Pierce stated she works with the LEAP program for children in grades K-6. There is a huge need for after school programs in Bigfork. Our facility at Crossroads Church cannot take kids from 7-9 grades. LEAP has grant funds to help with such a program for those students. She feels this would be a good program and asset to the community.

BLUAC:

Ridderhoff considered the project a good fit for the location and meets a need in the community.

Bourquin considered it a good project and is pleased to hear it will meet ADA requirements.

Gonzales questioned if the applicant was aware of signage regulations. A. Yes. **Gonzales** moved to recommend adding #15 Finding that the property must be ADA compliant. **Guerrant** second. Committee was unanimous for approval. **Guerrant** moved to recommend approval of the application with the addition of Finding #15. **Bourquin** second. Committee was unanimous for approval.

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on June 2, 2009, at 6:00 p.m.

B. A request in the Bigfork Zoning District by Calaway Brothers, Calaway Construction and Glacier Bank for an amendment to the original Mill Creek Estates Planned Unit Development. The applicants are proposing to modify the landscape plan to match the constructed improvements, revise the phasing plan to two phases, revise the phasing plan for the clubhouse and modify the open space to 51%. Public facilities, water and sewer, have been extended to the development. The property is located north of Holt Drive.

Staff: BJ Grieve stated on April 25, 2005 Mill Creek Estates was granted preliminary plat for the subdivision and an accompanying Mill Creek Estates PUD preliminary plan. The property ownership has changed and includes Glacier Bank, LLC, Calaway Brothers, LLC and Calaway Construction LLC. The new owners have indicated that there are commitments within the preliminary plan that cannot be met. They are applying for amendments to the PUD preliminary plan in order to make approval of a PUD final plan and adherence to that zoning overlay financially feasible. Since a PUD is an agreement between the developer and the community, amendments to the PUD are submitted to the same public process that was followed to create the original PUD.

One important proposed change to the PUD is that the clubhouse, while still a permitted use, is no longer to be built by the developer. The clubhouse will be built if 70% of the homeowner's agree to levy an assessment to build it. The second change is landscape berms along roads have been constructed at 2-4 feet in height, a reduction from the original plan.

A section pertaining to routine maintenance of the open space/common area will be added to the CCR's. The original plan called for 9 phases. The applicant would change that to 2 phases. Staff has submitted seven (7) conditions for approval of the PUD.

Guerrant: Who owns the property? A. Glacier Bank 80 lots, Calaway 25 lots, 8 home lots by private owners. Have the other owners commented on this? Are present lot owners thinking the clubhouse will be built and mailboxes located at the clubhouse? A. We have had no comment from other lot owners.

Gonzales: Who owns the 1.8 acres dedicated for the clubhouse? A. A Homeowners Association has been established. Is this action to allow the letter of credit to go away? A. This is a subdivision issue. The SIA means if work doesn't get done, the letter of credit is set up to finance it. If the developer does not get final approval on the subdivision, the property would be out of compliance with zoning.

Guerrant: Why was the berming reduced? A. Staff noted they did not know why but were not concerned about it.

Bourquin: Do you mean title cannot be transferred to an individual owner? A. Yes. The property is okay with subdivision regulations but not the PUD.

Ridderhoff: Page 7 refers to open space, which include the clubhouse area. What happens if the clubhouse is not built? Can we ask for a condition to designate that area as open space? A. Yes I think this area should be a clubhouse or open space.

Guerrant: Is the County concerned about legal problems from the lot owners? A. The County Attorney has advised us to move forward with this. We do not know about the legalities. All property owners have been notified.

Applicant:

Mike Fraser, engineer, noted that the open space is currently 51% which is double what was proposed. The clubhouse lot can only be used as a clubhouse or open space. The change from 9 phases to 2 is to reduce construction time to a few years. The Homeowners Association has been assessed for maintenance of all common area. The clubhouse would be built when 70% of lot owners agree to assess themselves for the construction and maintenance.

Tim Calaway: When I first got involved with the purchase of 25 lots, Sortino (developer) was to construct the clubhouse. The plans now are to turn the clubhouse area into a park. We have already started planting trees. We finally have things moving forward here and have support for maintenance.

Dennis Beams (Glacier Bank): The Bank has paid the property taxes and initiated the homeowners association. The HOA has agreed to an assessment of \$250 per lot. Glacier Bank holds the letter of credit to complete the infrastructure.

Gonzales: Does the bank own the clubhouse lot? A. The Bank took possession of all common area amenities including the clubhouse. The website indicates the project is now for sale. A. Yes, Trails west represents the 80 lots the Bank owns. If the HOA owns the common areas, could they sell the property if they take title? A. (Grieve) Yes, unless the CCR's preclude selling open space. We do see that happen. They could amend the CCR's.

Mike Fraser: The PUD only allows 113 lots. They cannot create any more lots.

Bourquin: In the staff report and Conditions 1-7, where is the change for the clubhouse and berms? A. #4 Covers all of that.

Calaway: The 6' berm was Sortino's idea. It would make that berm, especially along Holt Drive ridiculously high and take up too much space. With the current height, it is much more attractive and leaves more room for landscaping.

Public Agencies: None

Public Comment:

Sandy O'Connell: I live in the duplex Calaway built and I have some concerns but will wait for the Planning Board on June 10.

BLUAC:

Gonzales: I would suggest amending the CCR's to reflect the HOA's responsibility for maintenance of the clubhouse/open space and that the 1.8 acres be designated for no other use than a clubhouse or park.

Ridderhoff: The berm along Chapman Road could be higher. A. For each foot in height, it takes six feet in width. We plan to put trees along there, which will look much better than a berm.

Gonzales: Do you have measures for mosquito abatement? Those ponds are filthy and just asking for a mosquito hatch. A. The electricity had been disconnected. We are just now getting that hooked back up so we can get that cleaned up and the pumps running.

Bourquin: Moved the application be recommended for approval with all conditions. Second Ridderhoff.

Guerrant: Moved the motion be amended to add a recommendation that the clubhouse lot be limited to a clubhouse, park or combination and that all common areas are maintained as open space. Ridderhoff seconded. The motion was approved unanimously. The motion to recommend approval with the recommended amendment was approved unanimously.

The application will be heard by the Flathead County Planning Board, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on June 10, 2009, at 6:00 p.m.

OLD BUSINESS:

A. Bigfork Neighborhood Plan:

The Bigfork Neighborhood Plan is on the Commissioner's agenda for June 2, 2009, 10:30 a.m.

B. By-laws & Policies & Procedures:

Generally agreed to wait until the June 25, 2009 meeting when all committee members are present.

NEW BUSINESS:

A. Commissioner Appointment to Planning Board:

Jeff Larson was appointed to the Flathead County Planning Board to replace Rita Hall.

PUBLIC COMMENT:

None

Meeting was adjourned at 5:55 p.m.

Sue Hanson
BLUAC Secretary